

RAY MALLORY

IBLA 82-1079

Decided November 9, 1982

Appeal from decision of Utah State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. U MC 177497 through U MC 177505.

Appeal dismissed.

1. Appeals -- Rules of Practice: Appeals: Dismissal -- Rules of Practice:
Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires dismissal of the appeal.

APPEARANCES: Don R. Strong, Esq., Springville, Utah, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

The Utah State Office, Bureau of Land Management (BLM), by decision of May 19, 1982, declared the unpatented Cordalia #1 through #9 lode mining claims, U MC 177497 through U MC 177505, abandoned and void because no proof of labor or notice of intention to hold the claims was filed with BLM prior to December 31, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1. The decision, served on Mallory May 20, 1982, allowed the right of appeal to this Board for a period of 30 days thereafter.

Notice of appeal was filed with BLM July 15, 1982, some 56 days after the service of the decision.

[1] The regulations require that a notice of appeal be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. 43 CFR 4.411(a). This Board has held that the timely filing of a notice of appeal is required to establish the jurisdiction of the Board to review the decision below and that the failure to file the

appeal within the time allowed mandates dismissal of the appeal. Nequoia Association, 60 IBLA 386 (1981); Galen B. Brazington, 59 IBLA 255 (1981); Reg Whitson, 55 IBLA 5 (1981); Ilean Landis, 49 IBLA 59 (1980); Lavonne E. Grewell, 23 IBLA 190 (1976); see Browder v. Director, Ill. Dept. of Corrections, 434 U.S. 257, 264 (1978); Pressentin v. Seaton, 284 F.2d 195, 199 (D.C. Cir. 1960). Although this Board is generally reluctant to take any action which would preclude review of appeals on the merits, the purpose of the rule is to establish a definite time when administrative proceedings regarding a claim are at an end, in order to protect other parties to the proceedings and the public interest, and strict adherence to the rule is required. See Browder v. Director, Ill. Dept. of Corrections, *supra* at 264.

Since Mallory did not file a notice of appeal of the May 19, 1982, decision of BLM within the 30-day period allowed by regulation for such appeal, the BLM decision became final, the Cordalia #1 through #9 lode mining claims are considered abandoned and void, and this proceeding must be dismissed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal of Ray Mallory is dismissed.

Douglas E. Henriques
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Will A. Irwin
Administrative Judge

